



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ENVIRONMENTAL
CLEANUP

June 29, 2012

Mr. Bob Wyatt
Chairman, Lower Willamette Group
c/o Northwest Natural
220 Northwest Second Avenue
Portland, Oregon 97209

Re: Portland Harbor Superfund Site, Administrative Order on Consent for Remedial Investigation and Feasibility Study; Docket No. CERCLA-10-2001-0240
Response to Lower Willamette Group (LWG) June 29, 2012, letter regarding EPA Directed Modifications and Additional Comments on Baseline Human Health Risk Assessment dated May 2, 2011

Dear Mr. Wyatt;

This letter is in response to the letter sent to EPA on June 29, 2012, from the LWG regarding a request for extension for dispute, document deliverable, and clarifications on intent of the EPA regarding the Administrative Order on Consent.

The LWG requested an extension of the dispute deadline from 14 days as described in the Administrative Order on Consent to 45 days "to evaluate EPA's allegations and directed revisions and prepare responses." EPA does not believe that 45 days are required for the LWG to read EPA's modifications and determine whether it will dispute one or more of those modifications. Due to the number of changes made, EPA agrees that an extension is warranted, but a 30 day extension on top of the 14 days is excessive. EPA is granting an additional 14 day extension from the date that the LWG received the letter, or July 24, 2012, to invoke dispute and provide its written objections and basis as required by Section XVIII, Paragraph 1.

Additionally, the LWG requested an extension of time to submit the revised Baseline Human Health Risk Assessment from 30 days to 90 days, or until September 21, 2012. This extension time infers that the LWG will spend 45 days only reviewing the changes and deciding whether to dispute but not actively working to revise the Risk Assessment document during that time. EPA will agree to extend the time for revising the Baseline Human Health Risk Assessment to 90 days from the date the LWG's receipt of our June 22nd modifications, which would be September 21, 2012, but the basis is due to the extensive revisions needing to be made to the tables. EPA does not expect written responses to the modified text as part of its resubmission of the document or any

requested changes to the tables since all the comments were directive. If the LWG decides to dispute one or more of EPA's modifications, revisions related to disputed issues will be deferred until after a final dispute decision.

Lastly, the LWG requested clarification on the intent of EPA regarding stipulated penalties. In accordance with Paragraph 1, Section IX of the Administrative Order on Consent, EPA has determined that the LWG failed to produce a BHHRA of acceptable quality, or otherwise failed to perform in accordance with the requirements of the Order by failing to fully correct all deficiencies and incorporate and integrate all information and comments supplied by EPA on prior versions of the BHHRA. It is EPA's intent that the written notice dated June 22, 2012 was the date upon which the LWG failed to produce a BHHRA of acceptable quality and, in accordance with the AOC, the day stipulated penalties began accruing and will continue to accrue until a satisfactory deliverable is produced. However, as further stated in Paragraph 1, Section XIX of the Administrative Order on Consent, "EPA may, at its discretion, waive imposition of stipulated penalties if it determines that Respondents have attempted in good faith to comply with this Order, or have timely cured defects in initial submissions." EPA shall make this determination after receipt of the revised BHHRA and it has been determined that the corrections required by EPA have been conducted both timely and completely.

The LWG's letter further indicated that if EPA did not grant the extension of time requested that the LWG was invoking dispute resolution. The LWG's June 29, 2012 letter is insufficient to invoke dispute under the AOC. If the LWG chooses to invoke dispute resolution, it must do so in compliance with Section XVIII, Paragraph 1.

If you have any questions regarding this letter, please contact Chip Humphrey at (503) 326-2678, or humphrey.chip@epa.gov, Kristine Koch at (206) 553-6705, or koch.kristine@epa.gov. All legal inquiries should be directed to Lori Cora at (206) 553-1115, or cora.lori@epa.gov.

Sincerely,


for Chip Humphrey
Remedial Project Manager

Kristine Koch
Remedial Project Manager

cc: Mr. Jim Anderson
Oregon Department of Environmental Quality

Mr. Rob Neely
National Oceanic and Atmospheric Administration

Mr. Ted Buerger
U.S. Fish and Wildlife Service

Mr. Brian Cunningham
Confederated Tribes of the Warm Springs Reservation of Oregon

Ms. Rose Longoria
Confederated Tribes and Bands of the Yakama Nation

Mr. Michael Karnosh
Confederated Tribes of the Grand Ronde Community of Oregon

Mr. Tom Downey
Confederated Tribes of the Siletz Indians

Mr. Audie Huber
Confederated Tribes of the Umatilla Indian Reservation

Ms. Erin Madden
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Mr. Greg Ulirsch
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Mr. Kurt Burkholder
Oregon Department of Justice

Mr. Todd Hudson
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